

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

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House of Representatives
Forty-seventh Legislature
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CHAPTER 123

HOUSE BILL 2086

AN ACT

AMENDING SECTIONS 42-1126, 42-5014, 42-5018 AND 43-401, ARIZONA REVISED
STATUTES; RELATING TO TAX RETURNS AND PAYMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-1126, Arizona Revised Statutes, is amended to
3 read:

4 42-1126. Fee for bad checks

5 The department may charge and collect a fee of twenty-five dollars from
6 a taxpayer that offers a check, draft, negotiable order of withdrawal or
7 similar instrument, OR AN ELECTRONIC FUNDS TRANSFER, AUTOMATED CLEARING HOUSE
8 DEBIT OR AUTOMATED CLEARING HOUSE CREDIT drawn on a bank or other depository
9 institution in full or partial payment of a tax administered pursuant to this
10 article if the instrument, TRANSFER, DEBIT OR CREDIT is not paid or is
11 dishonored by the institution.

12 Sec. 2. Section 42-5014, Arizona Revised Statutes, is amended to read:

13 42-5014. Return and payment of tax; estimated tax; extensions;
14 abatements

15 A. Except as provided in subsection B, C or D of this section, the
16 taxes levied under this article:

17 1. Are due and payable monthly in the form required by section 42-5018
18 for the amount of the tax, to the department, on or before the twentieth day
19 of the month next succeeding the month in which the tax accrues. and

20 2. Are delinquent AS FOLLOWS:

21 ~~1-~~ (a) FOR TAXPAYERS ELECTING TO FILE BY MAIL, if not postmarked on
22 or before the twenty-fifth day of that month OR IF NOT RECEIVED BY THE
23 DEPARTMENT ON OR BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY OF
24 THE MONTH.

25 (b) FOR ALL OTHER TAXPAYERS, IF NOT RECEIVED BY THE DEPARTMENT ON OR
26 BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY OF THE MONTH.

27 ~~2. If not received by the department on or before the business day~~
28 ~~preceding the last business day of that month for those taxpayers electing to~~
29 ~~file by mail.~~

30 ~~3. If not received by the department on the business day preceding the~~
31 ~~last business day of that month for those taxpayers electing to file in~~
32 ~~person.~~

33 ~~4. If not received by the department on or before the twenty fifth day~~
34 ~~of that month for those taxpayers required or electing to pay in immediately~~
35 ~~available monies pursuant to section 42-1129.~~

36 B. ~~For tax reporting periods that begin from and after December 31,~~
37 ~~1998,~~ The department may, for any taxpayer whose estimated annual liability
38 for taxes imposed by this article is between five hundred dollars and one
39 thousand two hundred fifty dollars, MAY authorize such taxpayer to pay such
40 taxes on a quarterly basis. ~~For tax reporting periods that begin from and~~
41 ~~after December 31, 1998,~~ The department may, for any taxpayer whose estimated
42 annual liability for taxes imposed by this article is five hundred dollars or
43 less, MAY authorize such taxpayer to pay such taxes on an annual basis.

44 C. The department may require a taxpayer whose business is of a
45 transient character to file the return and remit the taxes imposed by this

1 article on a daily, a weekly or a transaction by transaction basis, and those
2 returns and payments are due and payable on the date fixed by the department
3 without a grace period otherwise allowed by this section. For THE purposes
4 of this subsection, "business of a transient character" means sales activity
5 by a taxpayer not regularly engaged in selling within the state conducted
6 from vehicles, portable stands, rented spaces, structures or booths, or
7 concessions at fairs, carnivals, circuses, festivals or similar activities
8 for not more than thirty consecutive days.

9 D. If the business entity under which a taxpayer reports and pays
10 income tax under title 43 has an annual total tax liability under this
11 article, article 6 of this chapter and chapter 6, article 3 of this title of
12 one hundred thousand dollars or more, based on the actual tax liability in
13 the preceding calendar year, regardless of the number of offices at which the
14 taxes imposed by this article, article 6 of this chapter or chapter 6,
15 article 3 of this title are collected, or if the taxpayer can reasonably
16 anticipate such liability in the current year, the taxpayer shall report on a
17 form prescribed by the department and pay an estimated tax payment each
18 June. Any other taxpayer may voluntarily elect to pay the estimated tax
19 payment pursuant to this subsection. The payment shall be made on or before
20 June 20 and is delinquent if not postmarked on or before that date or if not
21 received by the department on or before the business day preceding the last
22 business day of June for those taxpayers electing to file by mail, or
23 delinquent if not received by the department on the business day preceding
24 the last business day of June for those taxpayers electing to file in
25 person. ~~A taxpayer paying by using the method prescribed in subsection A,~~
26 ~~paragraph 4 of this section shall make the estimated tax payments on or~~
27 ~~before June 25, and the payment is delinquent if not transferred by the last~~
28 ~~day to make the estimated payment.~~ The estimated tax paid shall be credited
29 against the taxpayer's tax liability under this article, article 6 of this
30 chapter and chapter 6, article 3 of this title for the month of June for the
31 current calendar year. The estimated tax payment shall equal either:

32 1. One-half of the actual tax liability under this article plus
33 one-half of any tax liability under article 6 of this chapter and chapter 6,
34 article 3 of this title for May of the current calendar year.

35 2. The actual tax liability under this article plus any tax liability
36 under article 6 of this chapter and chapter 6, article 3 of this title for
37 the first fifteen days of June of the current calendar year.

38 E. The taxpayer shall prepare a return showing the amount of the tax
39 for which the taxpayer is liable for the preceding month, and shall mail or
40 deliver the return to the department in the same manner and time as
41 prescribed for the payment of taxes in subsection A of this section. IF THE
42 TAXPAYER FAILS TO FILE THE RETURN IN THE MANNER AND TIME AS PRESCRIBED FOR
43 THE PAYMENT OF TAXES IN SUBSECTION A OF THIS SECTION, THE AMOUNT OF THE TAX
44 REQUIRED TO BE SHOWN ON THE RETURN IS SUBJECT TO THE PENALTY IMPOSED PURSUANT
45 TO SECTION 42-1125, SUBSECTION A, WITHOUT ANY REDUCTION FOR TAXES PAID ON OR

1 BEFORE THE DUE DATE OF THE RETURN. The return shall be verified by the oath
2 of the taxpayer or an authorized agent or as prescribed by the department
3 pursuant to section 42-1105, subsection B.

4 F. Any person WHO IS taxable under this article ~~making~~ AND WHO MAKES
5 cash and credit sales shall report such cash and credit sales separately and
6 upon making application may obtain from the department an extension of time
7 for payment of taxes due on the credit sales. The extension shall be granted
8 by the department under such rules as the department prescribes. When the
9 extension is granted, the taxpayer shall thereafter include in each monthly
10 report all collections made on such credit sales during the month next
11 preceding, and shall pay the taxes due at the time of filing such report.

12 G. The returns required under this article shall be made upon forms
13 prescribed by the department.

14 H. The department, for good cause, may extend the time for making any
15 return required by this article, and may grant such reasonable additional
16 time within which to make the return as it deems proper, but the time for
17 filing the return shall not be extended beyond the first day of the third
18 month next succeeding the regular due date of the return.

19 I. The department, with the approval of the attorney general, may
20 abate small tax balances if the administration costs exceed the amount of tax
21 due.

22 J. For the purposes of subsection D of this section, "taxpayer" means
23 the business entity under which the business reports and pays state income
24 taxes regardless of the number of offices at which the taxes imposed by this
25 article, article 6 of this chapter or chapter 6, article 3 of this title are
26 collected.

27 Sec. 3. Section 42-5018, Arizona Revised Statutes, is amended to read:

28 42-5018. Method of payment

29 All remittances of taxes imposed by this article shall be made by bank
30 draft, check, cashier's check, money order, ~~or money~~ CASH OR ELECTRONIC FUNDS
31 TRANSFER to the department, which shall issue receipts therefor to the
32 taxpayers, but no remittance other than cash shall be final discharge of
33 liability for the tax levied by this article until it has been paid in cash
34 to the department.

35 Sec. 4. Section 43-401, Arizona Revised Statutes, is amended to read:

36 43-401. Withholding tax; rates; election by employee

37 A. Except as provided by subsection B of this section, every employer
38 at the time of the payment of wages, salary, bonus or other emolument to any
39 employee whose compensation is for services performed within this state shall
40 deduct and retain from the compensation an amount equal to a percentage,
41 determined pursuant to subsection C of this section, of the total amount of
42 the federal income tax deducted and withheld by an employer from the total
43 value of such wages, bonus or other emolument of an employee under the
44 provisions of the United States internal revenue code computed without
45 deductions for any amount withheld.

1 B. An employer may voluntarily elect to not withhold tax during
2 December by notifying:

3 1. The department on a form prescribed by the department.

4 2. The employer's employees in writing in a manner prescribed by the
5 department.

6 C. The percentage deducted and retained under subsection A of this
7 section shall be:

8 1. If the employee's annual compensation is less than fifteen thousand
9 dollars, ten per cent, nineteen per cent, twenty-three per cent, twenty-five
10 per cent, thirty-one per cent or thirty-seven per cent, at the employee's
11 election pursuant to subsection F of this section.

12 2. If the employee's annual compensation is fifteen thousand dollars
13 or more, nineteen per cent, twenty-three per cent, twenty-five per cent,
14 thirty-one per cent or thirty-seven per cent, at the employee's election
15 pursuant to subsection F of this section.

16 3. Zero per cent at the election of an employee who had no state
17 income tax liability in the prior taxable year and expects to have no state
18 income tax liability for the current taxable year.

19 D. If the amount collected and payable by the employer to the
20 department in each of the preceding four calendar quarters did not exceed an
21 average of one thousand five hundred dollars, the amount collected shall be
22 paid to the department on or before April 30, July 31, October 31 and January
23 31 for the preceding calendar quarter. If such amount exceeded one thousand
24 five hundred dollars in each of the preceding four calendar quarters, the
25 employer shall pay to the department the amount the employer deducts and
26 retains pursuant to this section at the same time as the employer is required
27 to make deposits of federal tax pursuant to section 6302 of the internal
28 revenue code. On or before April 30, July 31, October 31 and January 31 each
29 year the employer shall reconcile the amounts payable during the preceding
30 calendar quarter in a manner prescribed by the department, EXCEPT THAT IF THE
31 FULL AMOUNT COLLECTED AND PAYABLE IS PAID TIMELY TO THE DEPARTMENT UNDER THIS
32 SUBSECTION, THE EMPLOYER MAY RECONCILE THE AMOUNTS ON OR BEFORE MAY 10,
33 AUGUST 10, NOVEMBER 10 AND FEBRUARY 10 EACH YEAR. ~~For taxable years or~~
34 ~~reporting periods that begin from and after December 31, 1997, The department~~
35 by rule may allow and determine which employers qualify for annual payments
36 of withholding taxes, with an annual report by the employer pursuant to
37 section 43-412, subsection B, if the qualifying employer has established
38 sufficient payment history to indicate that the employer is current and in
39 good standing pursuant to standards established by rule. For any business
40 which has not had a withholding certificate for the four preceding
41 consecutive quarters, the quarterly average shall be computed in a manner
42 prescribed by the department.

43 E. If an employer fails to make a timely monthly payment because prior
44 to that reporting period it reported on a quarterly basis instead of on a
45 monthly basis, the department shall notify the employer that it is out of

1 compliance with this section. Notwithstanding section 42-1125, the
2 department shall not assess a penalty against an employer for failing to make
3 a timely monthly payment if the employer had filed and remitted all taxes due
4 on a quarterly basis and brings all filings and payments into current
5 compliance within thirty days after being notified by the department.

6 F. Each employee shall elect the amount authorized by subsection C of
7 this section to be withheld for application toward the employee's state
8 income tax liability. The election provided under this subsection shall be
9 exercised by each employee, in writing on a form prescribed by the
10 department. The election shall be made within five days of employment. Each
11 employer shall notify the employees of the election made available under this
12 subsection and shall have election forms available at all times. Each form
13 shall be completed in triplicate, with one copy each for the department, the
14 employer and the employee. The employer shall file a copy of each completed
15 form with the department. Any employee failing to complete an election form
16 as prescribed shall be deemed to have elected the smallest applicable
17 withholding percentage.

18 G. Before October 1, 2005 and before July 1 each year thereafter, each
19 employer who chooses to not withhold tax pursuant to subsection B of this
20 section shall notify each employee that:

21 1. State income taxes will not be withheld from compensation in
22 December.

23 2. The employee may elect to change the rate of withholding tax
24 prescribed by this section to compensate for the resulting change in annual
25 withholdings from the employee's compensation.

APPROVED BY THE GOVERNOR APRIL 17, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2006.